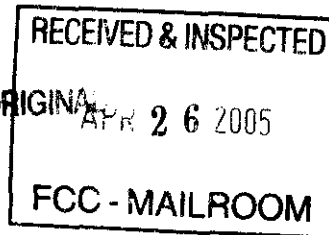




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SANDLER

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Paul Mark Sandler
Direct Dial: 410.385.4272
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36 S. Charles Street
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April 22, 2005

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VIA UPS

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

Re: CC Docket No. 02-6
Applicant: The Mill School
Appeal of USAC's Denial of Funding Request Numbers
954158, 954233, 1007210 and 1007102

To Whom It May Concern:

This letter is an appeal of the above-referenced denials by the School and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC"). Copies of the denial letters are attached hereto as **Exhibit A**. The undersigned has been authorized to submit and discuss this appeal with representatives of the Federal Communications Commission.

The Mill School is a non-profit educational and residential facility for girls located in Baltimore, Maryland. The School currently educates and houses approximately forty (40) girls in grades 7 through 12. The School is approved by the Maryland State Department of Education.

Below is an explanation of the basis for each of the School's three appeals. For purposes of this letter, the appeals relating Funding Requests 1007102 and 1007210 have been consolidated, because they present the same issue relating to alleged violations of the competitive bidding process.

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Federal Communications Commission
April 22, 2005
Page 2

Funding Requests 954158 and 954233

This appeal concerns telephone services contracted with AT&T, Verizon, Cingular Wireless and T-Mobile. SLD denied the School's appeal based on its conclusion that the "documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal." The decision of the SLD ignored the fact that the School has provided assurance that price was the primary factor in making its service provider selection. (See the School's prior appeal letter, a copy of which is attached hereto as **Exhibit B**).

It therefore bears reiterating that, based on The School's records and recollections relating to cellular phone contracts, The School is able to state with confidence that price was the primary factor in selecting cellular telephone service providers. The School is a non-profit entity that is very sensitive to the price of cell phone service. Due to such concerns, as well as the recognition that prices for cell phone services can fluctuate over time, The School is continually in the process of reviewing its cell phone usage and contracts to determine whether it is getting the best deal for its money. In fact, on several occasions, The School switched cell phone providers based on price concerns. Given these circumstances, The School does not agree with the finding that price was not the primary concern in determining which cell phone service provider The School would use.

Accordingly, The School respectfully requests that the FCC reverse the decision of the SLD denying a portion of the FY 2003 funding for cell phone services contracted for by The School.

Funding Requests 1007102 and 1007210

These two appeals concern the SLD's finding that two vendors, DeltaNet, Inc. and Serious ISP, Inc. were improperly involved in the competitive bidding and vendor selection processes. This finding was based solely on the allegation that the School's FCC Form 470 service descriptions and FCC Form 470 certification displayed similarities to those of other applicants that selected the same vendors. See USAC's Funding Commitment Decision Letters dated July 27, 2004, copies of which are attached



Federal Communications Commission
April 22, 2005
Page 3

as Exhibit C; also see the Appeal Denial Letters dated February 24, 2005, copies of which are attached as Exhibit A).

SLD did not find that the Mill School itself engaged in any improper behavior. Rather, the SLD incorrectly focused solely on the conduct of the vendors. In this case, the School has fully complied with the applicable rules for competitive bidding, and its selection process was vendor neutral. The School was not aware of any impropriety involving the Form 470 and the Form 470 certifications relating to applications submitted by the School. Moreover, SLD has not provided the School with copies of the Form 470s of other applicants to determine whether the alleged similarities actually exist. Accordingly, the decision of SLD should be overturned because the evidence relied on by SLD does not conclusively prove that DeltaNet and Serious were improperly involved in the competitive bidding process. Similarities in the Form 470 descriptions and certifications could have existed in the absence of any impropriety.

Here, the School should not be penalized for alleged vendor violations of the bidding process that the School was not aware of and did not participate in. Assuming for the sake of argument that alleged similarities in the Form 470 descriptions and certifications exist, that fact standing alone is not sufficient to support the SLD's finding that the School abdicated control over the application process to the vendors.

Until USAC's procurement rules are more clearly defined (rather than allowing USAC to make a determination based solely upon unspecified similarities on the Form 470 service description and the FCC Form 470 certification), those rules should not be enforced in a way that penalizes applicants, such as the School, for perceived violations by vendors. Significantly, at the time the School submitted its application for the 2003 funding year, questionable vendors had not been publicly identified as such by the SLD.

Moreover, the limited involvement of Serious ISP and DeltaNet in the School's procurement process represents a valid vendor support activity rather than a violation of the competitive bidding rules. SLD and FCC should recognize that vendor assistance to schools in technology planning and E-Rate funds are necessary and acceptable sales strategies and need not be deemed threatening to program integrity. In this regard, Chapter 5 of the SLD's own Service Provider Manual states that "The FCC understands that applicants sometimes need to seek assistance from service providers in developing



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Federal Communications Commission

April 22, 2005

Page 4

RFPs. Such assistance is permissible even if the service provider plans to submit a bid in response to that RFP as long as the service provider's assistance is neutral." Vendor assistance in the preparation of more general Form 470 descriptions should be equally permissible. In this case, the service descriptions found in the Schools Form 470s are generic in nature and are clearly vendor neutral.

For the foregoing reasons, The Mill School respectfully requests that the FCC overturn the decision of the SLD, and find that The Mill School is not liable for additional payments to USAC with respect to Funding Requests 1007102 and 1007210.

The undersigned is available at your convenience to address matters relevant to these appeals.

Very truly yours,

Paul Mark Sandler

cc: Anne Shervington Davis (*via first-class mail*)
Paul Clement (*via first-class mail*)
Schools and Libraries Division (*via UPS: Box 125, Correspondence Unit, 80 South
Jefferson Road, Whippany, NJ 07981*)

A



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

February 24, 2005

Paul Mark Sandler
Shapiro Sher Cuinot & Sandler
Charles Center South
36 South Charles Street
Baltimore, MD 21201

Re: Applicant Name: THE MILL SCHOOL
Billed Entity Number: 209648
Form 471 Application Number: 354229
Funding Request Number(s): 954158, 954233
Your Correspondence Dated: September 24, 2004

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2003 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 954158, 954233
Decision on Appeal: **Denied**
Explanation:

- On appeal you seek reversal of the SLD denial decision for the referenced FRN based on price not being the primary factor in the vendor selection. You further assert that based on the school's records regarding cellular phone contracts, the school is able to state with confidence that price was the primary factor in selecting Cingular and T-Mobile as service providers.
- After thorough review of your appeal letter and the relevant supporting documentation, it is determined that during the course of your review, the school was asked to provide documentation explaining the vendor selection process. The SLD thoroughly reviewed the documentation and determined that price was not the primary factor in the vendor selection process. According to your responses,

service was given priority over price. Since price was not the primary factor of consideration in the vendor selection process, the SLD determined that the vendor selection process did not comply with the rules of the Schools and Libraries Support Mechanism.

- SLD's review of your Form 471 application determined that price was not the primary factor when you selected your service provider. Since you did not demonstrate in your appeal that price was the primary factor when you selected your service provider, SLD denies your appeal.
- FCC rules require that applicants select the most cost-effective services offering with price being the primary factor. 47 C.F.R. § 54.511(a). Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. 47 C.F.R. § 54.511(a); *Request for Review by Ysleta Independent School District, et. al., Federal State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45, 97-21, Order, FCC 03-313 ¶ 50 (rel. Dec. 8, 2003). Ineligible products and services may not be factored into the cost-effective evaluation. See Common Carrier Bureau Reiterates Services Eligible for Discounts to Schools and Libraries, CC Docket No. 96-45, *Public Notice*, 13 FCC Rcd. 16,570, DA 98-1110 (rel. Jun. 11, 1998).

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or cancelled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: ANNE DAVIS

Paul Mark Sandler
Shapiro Sher Cuinot & Sandler
Charles Center South
36 South Charles Street
Baltimore, MD 21201



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

February 24, 2005

Paul Mark Sandler
Shapiro Sher Guinot & Sandler
Charles Center South
36 South Charles Street
Baltimore, MD 21201

Re: Applicant Name: THE MILL SCHOOL
Billed Entity Number: 209648
Form 471 Application Number: 347420
Funding Request Number(s): 1007102
Your Correspondence Dated: September 24, 2004

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2003 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1007102
Decision on Appeal: **Denied**
Explanation:

- On appeal you seek reversal of the SLD denial decision for the referenced FRN based on service provider involvement in the competitive bidding process. You assert that DeltaNet, Inc and Serious ISP were chosen as the School's service providers because their presentations were thorough and professional, and they demonstrated an ability and willingness to work well with the School's staff. The school can provide assurance that they did not assist, or attempt to assist, any service providers in violating or circumventing E-rate regulations.
- After a thorough review of the appeal and related documentation obtained by the SLD, it was determined that The Mill School's FCC Form 470 and FCC Form 470 certification displayed striking similarities to those of other applicants that

selected Serious ISP, Inc. as their vendor. The similarities in the FCC Form 470 service description and FCC Form 470 certification were only noted on applications that had Serious ISP, Inc. as a vendor, which indicates that Serious ISP, Inc. was improperly involved in the competitive bidding and vendor selection processes. In your appeal, you have not shown that SLD's determination was incorrect or that any such involvement was vendor neutral. Consequently, SLD denies your appeal.

- SLD denied your funding request(s) because it determined that similarities in the Form 470 and Form 470 certification provided to SLD among applicants associated with this vendor, indicate that the vendor was improperly involved in the competitive bidding and/or vendor selection process. In your appeal, you have not shown that SLD's determination was incorrect. Consequently, SLD denies your appeal.
- FCC rules require applicants to submit an FCC Form 470 to USAC for posting on its web site. 47 C.F.R. § 54.504(b). The FCC requires applicants to "submit a complete description of the services they seek so that it may be posted for competing service providers to evaluate." Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157, ¶ 570 (rel. May 8, 1997) (*Universal Service Order*). The FCC requires "the application to describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids." *Id.* ¶ 575. The Form 470 warns applicants that "[s]ervice provider involvement with the preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests." See Schools and Libraries Universal Service, Description of Services Requested and Certification Form 470, OMB 3060-0806 (*FCC Form 470*). Once the applicant enters into an agreement(s) with the service provider(s), the applicant submits an FCC Form 471 to SLD. 47 C.F.R. § 54.504(c). The FCC has stated that applicants cannot abdicate control over the application process to a service provider that is associated with the FCC Form 471 for that applicant. Request for Review by Bethlehem Temple Christian School, *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45, 97-21, DA-01-852 ¶ 6 (rel. Apr. 6, 2001).
- Pursuant to its authority to administer the Schools and Libraries Support Mechanism, SLD selects certain applicants for a Selective Review to ensure that they are following FCC rules relating to, among other things, the competitive bidding process. Applicants who are chosen for this review are sent the "E-Rate Selective Review Information Request." As part of this request, applicants are asked to answer certain questions regarding their competitive bidding and vendor selection process. In particular, applicants are asked to:

Please provide complete documentation indicating how and why you selected the service provider(s). This documentation should include a description of your evaluation process and the factors you used to determine the winning contract(s).

- According to the Selective Review Information Request, the person authorized by the applicant to sign on the applicant's behalf, or the entity's authorized representative, is required to certify that the authorized signer prepared the responses to the Selective Review Information Request on behalf of the entity.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or cancelled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: ANNE DAVIS

**Paul Mark Sandler
Shapiro Sher Guinot & Sandler
Charles Center South
36 South Charles Street
Baltimore, MD 21201**



Universal Service Administrative Company
Schools & Libraries Division

Administrator's Decision on Appeal – Funding Year 2003-2004

February 24, 2005

Paul Mark Sandler
Shapiro Sher Guinot & Sandler
Charles Center South
36 South Charles Street
Baltimore, MD 21201

Re: Applicant Name: THE MILL SCHOOL
Billed Entity Number: 209648
Form 471 Application Number: 347435
Funding Request Number(s): 1007210
Your Correspondence Dated: September 24, 2004

After thorough review and investigation of all relevant facts, the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC) has made its decision in regard to your appeal of SLD's Funding Year 2003 Funding Commitment Decision Letter for the Application Number indicated above. This letter explains the basis of SLD's decision. The date of this letter begins the 60-day time period for appealing this decision to the Federal Communications Commission (FCC). If your Letter of Appeal included more than one Application Number, please note that you will receive a separate letter for each application.

Funding Request Number(s): 1007210
Decision on Appeal: **Denied**
Explanation:

- On appeal you seek reversal of the SLD denial decision for the referenced FRN based on service provider involvement in the competitive bidding process. You assert that Delta Net, Inc and Serious ISP were chosen as the School's service providers due to their thorough and professional presentations, and because they demonstrated an ability and willingness to work well with the School's staff. The school can provide assurance that the School did not assist, or attempt to assist, any service providers in violating or circumventing E-rate regulations.
- After a thorough review of the appeal and review of the documentation obtained by the SLD, it was determined that The Mill School's FCC Form 470 and FCC Form 470 certification displayed striking similarities to those of other applicants

that selected DeltaNet, Inc. as their vendor. The similarities in the FCC Form 470 service description and FCC Form 470 certification were only noted on applications that had DeltaNet, Inc. as a vendor, which indicates that DeltaNet, Inc. was improperly involved in the competitive bidding and vendor selection processes. In your appeal, you have not shown that SLD's determination was incorrect or that any such involvement was vendor neutral. Consequently, SLD denies your appeal.

- SLD denied your funding request(s) because it determined that similarities in the Form 470 and Form 470 certification provided to SLD among applicants associated with this vendor, indicate that the vendor was improperly involved in the competitive bidding and/or vendor selection process. In your appeal, you have not shown that SLD's determination was incorrect. Consequently, SLD denies your appeal.
- FCC rules require applicants to submit an FCC Form 470 to USAC for posting on its web site. 47 C.F.R. § 54.504(b). The FCC requires applicants to “submit a complete description of the services they seek so that it may be posted for competing service providers to evaluate.” Federal-State Joint Board on Universal Service, CC Docket No. 96-45, *Report and Order*, FCC 97-157, ¶ 570 (rel. May 8, 1997) (*Universal Service Order*). The FCC requires “the application to describe the services that the schools and libraries seek to purchase in sufficient detail to enable potential providers to formulate bids.” *Id.* ¶ 575. The Form 470 warns applicants that “[s]ervice provider involvement with the preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests.” *See* Schools and Libraries Universal Service, Description of Services Requested and Certification Form 470, OMB 3060-0806 (*FCC Form 470*). Once the applicant enters into an agreement(s) with the service provider(s), the applicant submits an FCC Form 471 to SLD. 47 C.F.R. § 54.504(c). The FCC has stated that applicants cannot abdicate control over the application process to a service provider that is associated with the FCC Form 471 for that applicant. Request for Review by Bethlehem Temple Christian School, *Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, CC Docket Nos. 96-45, 97-21, DA-01-852 ¶ 6 (rel. Apr. 6, 2001).
- Pursuant to its authority to administer the Schools and Libraries Support Mechanism, SLD selects certain applicants for a Selective Review to ensure that they are following FCC rules relating to, among other things, the competitive bidding process. Applicants who are chosen for this review are sent the “E-Rate Selective Review Information Request.” As part of this request, applicants are asked to answer certain questions regarding their competitive bidding and vendor selection process. In particular, applicants are asked to:

Please provide complete documentation indicating how and why you selected the service provider(s). This documentation should include a description of your evaluation process and the factors you used to determine the winning contract(s).

- According to the Selective Review Information Request, the person authorized by the applicant to sign on the applicant's behalf, or the entity's authorized representative, is required to certify that the authorized signer prepared the responses to the Selective Review Information Request on behalf of the entity.

If your appeal has been approved, but funding has been reduced or denied, you may appeal these decisions to either the SLD or the FCC. For appeals that have been denied in full, partially approved, dismissed, or cancelled, you may file an appeal with the FCC. You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be received or postmarked within 60 days of the date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, send to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use the electronic filing options.

We thank you for your continued support, patience and cooperation during the appeal process.

Schools and Libraries Division
Universal Service Administrative Company

cc: ANNE DAVIS

Paul Mark Sandler
Shapiro Sher Guinot & Sandler
Charles Center South
36 South Charles Street
Baltimore, MD 21201

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Paul Mark Sandler

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36 S. Charles Street
Suite 2000
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21201-3147
Telephone: 410.385.0202
Facsimile: 410.539.7611

September 24, 2004

VIA FACSIMILE: 1+973-599-6542 & UPS NEXT DAY AIR

Letter of Appeal
Schools and Libraries Division
Box 125—Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981

RE: APPEAL of the following USAC Funding Commitment Decision Letters:

- (1) Date of USAC Funding Commitment Decision Letter: July 27, 2004
Applicant Name: THE MILL SCHOOL
Form 471 Application Number: 347435 (Funding Year 2003)
Funding Request Number: 1007210
Billed Entity Number: 209648
Applicant's Form Identifier: INTERNAL
SPIN Number: 143019766
Service Provider: DeltaNet, Inc.
Contract Number: D-TMMD02
- (2) Date of USAC Funding Commitment Decision Letter: July 27, 2004
Applicant Name: THE MILL SCHOOL
Form 471 Application Number: 347420 (Funding Year 2003)
Funding Request Number: 1007102
Billed Entity Number: 209648
Applicant's Form Identifier: I-NET
SPIN Number: 143020006
Service Provider: Serious ISP, Inc.
Contract Number: SISP-TMS



Letter of Appeal
September 24, 2004
Page 2

- (3) Date of USAC Funding Commitment Decision Letter: July 27, 2004
Applicant Name: THE MILL SCHOOL
Form 471 Application Number: 354229 (Funding Year 2003)
- (a) Funding Request Number: 954119
Billed Entity Number: 209648
Applicant's Form Identifier: TELCO
SPIN Number: 143001192
Service Provider: AT&T Corp.
Contract Number: T
- (b) Funding Request Number: 954132
Billed Entity Number: 209648
Applicant's Form Identifier: TELCO
SPIN Number: 143001401
Service Provider: Verizon - Maryland, Inc.
Contract Number: T
- (c) Funding Request Number: 954158
Billed Entity Number: 209648
Applicant's Form Identifier: TELCO
SPIN Number: 143025240
Service Provider: Cingular Wireless, Inc.
Contract Number: T
- (d) Funding Request Number: 954233
Billed Entity Number: 209648
Applicant's Form Identifier: TELCO
SPIN Number: 143026181
Service Provider: T-Mobile USA, Inc.
Contract Number: T



Letter of Appeal
September 24, 2004
Page 3

Dear Sir or Madam:

This letter is an APPEAL of the above-referenced Funding Commitment Decision Letters. The undersigned has been authorized to submit this appeal letter and discuss the appeal with USAC and SLD representatives.

Background

The Mill School ("The School") is a non-profit educational and residential facility located in Baltimore, Maryland. The School is approved by the Maryland State Department of Education. The School currently educates and houses approximately forty (40) girls in grades 7 through 12.

The School's day-to-day operations are supervised by its Executive Director, Anne Shervington Davis. The financial records for The School are maintained by Finance Director, Paul Clement. Ms. Davis and Mr. Clement can be reached at The School on weekdays by calling (410) 366-4333. Additionally, questions and comments may be directed to the undersigned at the telephone number listed above.

The Appeals

1 & 2. Appeals Relating to DeltaNet and Serious ISP

The first two appeals concern contracts for maintenance of The School's internal internet connections. The service providers involved are DeltaNet and Serious ISP.

In the Funding Commitment Decision Letters, USAC cites the following reason as the basis for their funding commitment denials: "Similarities in Forms 470s and in the preparation and submission of Form 470s certification pages amongst applicants using this service provider suggest service provider involvement in the competitive bidding process." See Exhibit 1 at Page 5, and Exhibit 2 at Page 5. Given the serious nature of these claims, The School wants assure USAC that it did not intentionally take any action to undermine the competitive bidding process for selecting E-Rate providers.



Letter of Appeal
September 24, 2004
Page 4

By way of background, The Mill School was first contacted in 1999 by DeltaNet about the E-Rate program; the School had not previously participated in the E-Rate program. After discussing the program with DeltaNet, The School properly posted its Form 470 to obtain bids for internal internet connections. The Form 470 was posted for at least 28 days, as required by the Federal Communications Commission. The School also waited until the allowable contract date before signing contracts with service providers. The School has followed the same procedure for each year it has participated in the E-Rate program.

In addition, The School has maintained accurate records of its Form 471, the bids received, its contracts with service providers, and other matters relating to the School's participation in the E-Rate program. Based on this documentation, as well as the recollections of School employees, DeltaNet and Serious ISP were chosen as The School's service providers because their presentations were thorough and professional, and because they demonstrated an ability and willingness to work well with The School's staff. Moreover, both providers delivered and installed all of the products and services contracted for.

With respect to USAC's finding of "similarities in the Form 470s . . . amongst applicants using this service provider," The School has no specific knowledge about the Form 470s submitted by other E-Rate applicants. Accordingly, based on its limited knowledge, The School is not able to fully respond to the claim that DeltaNet and Serious ISP were involved in the competitive bidding process. The School can provide assurance that The School did not assist, or attempt to assist, any service providers in violating or circumventing E-Rate regulations. Accordingly, The School respectfully requests that USAC reconsider and reverse its funding commitment decision with respect to DeltaNet and Serious ISP.



Letter of Appeal
September 24, 2004
Page 5

3. Appeals Relating to Telephone Service

The School's third appeal concerns telephone services contracted with AT&T, Verizon, Cingular Wireless and T-Mobile. In the Funding Commitment Decision Letter, USAC has denied a portion of the requested funding for these services (\$1,188.00) based on its conclusion that, with respect to the services provided by Cingular and T-Mobile, the "documentation provided demonstrates that price was not the primary factor in selecting this service provider's proposal." See Exhibit 3 at Page 5.

Based on The School's records and recollections relating to cellular phone contracts, The School is able to state with confidence that price was the primary factor in selecting Cingular and T-Mobile as service providers. The School is a non-profit entity that is very sensitive to the price of cell phone service. Due to such concerns, as well as the recognition that prices for cell phone services can fluctuate over time, The School is continually in the process of reviewing its cell phone usage and contracts to determine whether it is getting the best deal for its money. In fact, on several occasions, The School has switched cell phone providers based on price concerns. Given these circumstances, The School does not agree with the finding that price was not the primary concern in determining which cell phone service provider The School would use.

Accordingly, The School respectfully requests that USAC review and review its decision denying a portion of the FY 2003 funding for cell phone service contracted for with Cingular and T-Mobile.

Exhibits

Attached to this Appeal Letter are Exhibits 1, 2 and 3, copies of the above-referenced Funding Commitment Decision Letters.



Letter of Appeal
September 24, 2004
Page 6

Conclusion

For the foregoing reasons, The Mill School respectfully requests that USAC and SLD consider the merits of these appeals and find that The Mill School is entitled to funding commitments for FY2003 in the full amounts requested. The undersigned is available at your convenience to address matters relevant to these appeals.

Very truly yours,

Paul Mark Sandler

cc: Anne Shervington Davis (via facsimile)
Paul Clement (via facsimile)

C



Universal Service Administrative Company
Schools & Libraries Division

FUNDING COMMITMENT DECISION LETTER

(Funding Year 2003: 07/01/2003 - 06/30/2004)

July 27, 2004

THE MILL SCHOOL
ANNE DAVIS
3110 CRITTENTON PLACE
BALTIMORE, MD 21211

Re: Form 471 Application Number: 347435
Funding Year 2003: 07/01/2003 - 06/30/2004
Billed Entity Number: 209648
Applicant's Form Identifier: INTERNAL

Thank you for your Funding Year 2003 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$53,689.50 is "Denied."

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

NEW FOR FUNDING YEAR 2003

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment

Decision(s) you are appealing. Indicate the relevant funding year and the date of the FCDL. Your letter of appeal must also include the Billed Entity Name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.

3. When explaining your appeal, copy the language or text from the Funding Commitment Report that is at the heart of your appeal, to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, sent to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that the SLD and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

DISCOUNT PERCENTAGE APPROVED BY THE SLD: This is the discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service for this funding year. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry may amplify the comments in the "Funding Commitment Decision" area.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 347435
Funding Request Number: 1007210 Funding Status: Not Funded
Services Ordered: Internal Connections
SPIN: 143019766 Service Provider Name: DeltaNet, Inc.
Contract Number: D-TMMD02
Billing Account Number: N/A
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 09/30/2005
Site Identifier: 209648
Annual Pre-discount Amount for Eligible Recurring Charges: \$.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$59,655.00
Pre-discount Amount: \$59,655.00
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - Bidding Violation
Funding Commitment Decision Explanation: Similarities in Forms 470s and in the preparation and submission of Forms 470s certification pages amongst applicants using this service provider suggest service provider involvement in the competitive bidding process.



FUNDING COMMITMENT DECISION LETTER

(Funding Year 2003: 07/01/2003 - 06/30/2004)

July 27, 2004

THE MILL SCHOOL
ANNE DAVIS
3110 CRITTENTON PLACE
BALTIMORE, MD 21211

Re: Form 471 Application Number: 347420
Funding Year 2003: 07/01/2003 - 06/30/2004
Billed Entity Number: 209648
Applicant's Form Identifier: I-NET

Thank you for your Funding Year 2003 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$9,215.10 is "Denied."

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

NEW FOR FUNDING YEAR 2003

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment

Decision(s) you are appealing. Indicate the relevant funding year and the date of the ECDL. Your letter of appeal must also include the Billed Entity Name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.

3. When explaining your appeal, copy the language or text from the Funding Commitment Report that is at the heart of your appeal, to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

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Schools and Libraries Division
Universal Service Administrative Company

A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

FORM 471 APPLICATION NUMBER: The unique identifier assigned to a Form 471 application by the SLD.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to Applicants and Service Providers the status of individual discount funding requests submitted on a Form 471.

FUNDING STATUS: Each FRN will have one of the following definitions:

1. An FRN that is "Funded" will be approved at the level that the SLD determined is appropriate for that item. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds will be committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision," and amplification of that explanation may be offered in the section, "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connections requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on Form 471.

EARLIEST POSSIBLE EFFECTIVE DATE OF DISCOUNT: The first possible date of service for which the SLD will reimburse service providers for the discounts for the service.

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service provided in the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: This is the discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service for this funding year. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry may amplify the comments in the "Funding Commitment Decision" area.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 347420
Funding Request Number: 1007102 Funding Status: Not Funded
Services Ordered: Internet Access
SPIN: 143020006 Service Provider Name: Serious ISP, Inc
Contract Number: SISP-TMS
Billing Account Number: N/A
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 09/30/2005
Site Identifier: 209648
Annual Pre-discount Amount for Eligible Recurring Charges: \$10,164.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$75.00
Pre-discount Amount: \$10,239.00
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - Bidding Violation
Funding Commitment Decision Explanation: Similarities in Forms 470s and in the preparation and submission of Forms 470s certification pages amongst applicants using this service provider suggest service provider involvement in the competitive bidding process.